

Court No. - 7

Case :- WRIT - C No. - 4546 of 2024

Petitioner :- Ranjana Mishra

Respondent :- State Of U.P. Thru. Addl. Chief/ Prin.Secy.,
Empowerment Of Persons With Disabilities, Lko. And Ors

Counsel for Petitioner :- Utsav Mishra

Counsel for Respondent :- C.S.C.,Atul Kumar Dwivedi,Sanjeev
Kumar Srivastava

Hon'ble Alok Mathur,J.

1. Heard Sri Utsav Misra, learned counsels for the petitioner as well as learned Additional Chief Standing Counsel for respondent no. 1, Sri Sudeep Seth, learned Senior Advocate assisted by Sri Atul Kumar Dwivedi, learned counsel for the University i.e. respondent Nos.2 to 6 and Sri Sanjeev Kumar Srivastava, learned counsel appearing for respondent no. 7.

2. The brief facts of the case, as culled out from the pleadings of the writ petition, are that Dr. Shakuntala Misra National Rehabilitation University was established by the Government of Uttar Pradesh in the year 2008 and was established as a body corporate and the officers and members of the authorities constituted under the Respondent University are appointed by the State Government.

3. For the Academic Year 2016-17 the University issued admission instructions for the Ph.D. Programme. The Ordinance-2014 as well as the Ph.D Programme of the University for Academic Session 2014-2015 was approved by the Executive Council of the University. The Academic Council of the University in its meeting convened on 06.02.2015 at agenda Point No.1.9, pursuant to the approval granted by the Executive Council had also affirmed and approved the

Ordinance-2014 as well as the admission process for Ph.D. admission in the University for the Academic Session 2016-17.

4. The Academic Council in its meeting dated 26.10.2015 at agenda Point No.3.14 (1) has resolved to grant admission to such faculty members in the University and their wards who were desirous of pursuing their Ph.D by increasing the number of seats in addition to the existing seats.

5. The Advertisement for Session 2016-17 was published by the University in which it was categorically indicated that the number of seats, which were advertised, could be changed/ modified after seeking approval from the Vice-Chancellor of the University. In Clause 11 of the advertisement it was specifically mentioned that 10% of seats were reserved for the University employees and their wards. The University issued office order prescribing the date and time for the entrance examination for admission to the Ph.D Programme for the Academic Session 2016-17 in the University which was scheduled for 30.06.2016.

6. Pursuant to the declaration of the entrance examination schedule, the petitioner was issued the admit card for admission to the Ph.D Programme, which was scheduled to be held on 30.06.2016 at New Campus of the University.

7. The petitioner was called for the next stage of examination process i.e. for interview on 28.07.2016.

8. The Admission Committee constituted by the University for the admission of Ph.D Programme after declaring the result of admitted candidates in the different subjects and pursuant to examining the relevant documents, prepared the subject-wise list of admitted candidates for Ph.D Programme for the Academic Session 2016-17 in

which the name of the petitioner was mentioned as admitted candidates in the Faculty of Education under the University Employees Quota.

9. The petitioner vide letter dated 10.05.2016 requested to the Vice-Chancellor of the University for grant of admission under the University quota.

10. The petitioner duly completed the Pre Ph.D Course Work and submitted the report to the Pre Ph.D Course Coordinator and thereafter appeared for the Pre Ph.D Course Work Examination.

11. The resolution of the Academic Council in its meeting dated 03.10.2015, regarding provision of additional seats in the Ph.D Programme of the University for the faculty members and their wards, was presented before the Executive Council in its 16th meeting convened on 20.08.2016 at agenda No.3.14. The Executive Council in its 17th meeting held on 05.05.2017 at agenda No.16.4 approved the resolution of the Academic Council dated 03.10.2015 regarding grant of admission to the faculty members of the University on additional seats in the Ph. D Programme.

12. The Registrar vide office memorandum pursuant to the decision taken by the Academic Council of the University its 5th meeting held on 11.05.2018 took a decision that those candidates who have been admitted as per clause 1.7 of the Ordinance-2014 without appearing in the entrance examinations were prohibited from doing any exercise with regard to their Ph.D Course till the Enquiry Committee constituted by the Academic Council submits its report.

13. The Registrar of the University vide letter dated 15.10.2019 requested to all the Head of the Department of University to obtain notarized affidavit from such Ph. D candidates who were granted

admission in the Ph.D Programme of the University from the year 2014 till 2017 in the format as prescribed in the aforesaid letter dated 15.10.2019.

14. The Registrar of the University pursuant to the decision taken by the Executive Council of the University in its 26th meeting convened on 11.09.2019 had kept the earlier office memorandum dated 16.11.2018 whereby the directions were issued not to proceed further with the Ph.D Course, was kept in abeyance vide office memo dated 01.11.2019.

15. In compliance of the aforesaid office memorandums issued by the Registrar of the University, the petitioner vide letter dated 22.10.2019 submitted the affidavit as sought vide office memorandum dated 15.10.2019 along with the certificate of progress of the petitioner issued by the Research Supervisor.

16. The University Grants Commission vide Public Notice dated 16.03.2021 in larger interest of the Research Scholars extended the time for submission of thesis by M.Phil/ Ph.D students for a period of six months i.e. till 31.12.2021. The petitioner vide letter dated 15.09.2022 requested to the Chairman DRC and the Head of the Department by enclosing the copy of the progress report for grant of permission for Pre Submission Viva of Ph.D thesis at the earliest. The University Grants Commission vide Public Notice dated 17.05.2022 had further extended the time for submission of Ph.D thesis for a period of six month beyond 30.06.2022.

17. The petitioner vide e-mail dated 15.09.2022 has informed the Vice-Chancellor/ Chairman RDC that she had participated in the Entrance Examination conducted by the University for admission in the Ph.D Programme for Academic Session 2016-17. When no action

was taken on the aforesaid e-mail of the petitioner, the petitioner sent reminders dated 08.07.2023, 18.12.2023, 20.02.2024, 29.02.2024 and 19.04.2024 to the Vice-Chancellor/ chairman RDC and requested to allow her for Pre Submission Viva of her Ph.D thesis.

18. Sri Seth has submitted on the basis of the aforesaid letter that the Research Degree Committee in its meeting dated 06.07.2023 has accepted the recommendations made in the report dated 01.07.2023 and upon the consequent approval of the Competent Authority, office order dated 07.07.2023 has been issued by the Register permitting the teachers having NET/ SLET/ JRF qualification to continue their Ph.D Course. Such teachers, who do not possess the NET/ SLET/ JRF qualification and has been given admission in the Ph.D Course directly without participation in the entrance examination, have been given an opportunity to appear in the Ph.D entrance test and upon qualifying the same they shall be allowed to continue their Ph.D Course.

19. Sri Seth, learned Senior Advocate has submitted that since the present petitioner is not having qualification of NET/ SLET/ JRF, therefore, the petitioner will have to appear in the Ph.D. Entrance Test and after qualifying the same, she may be allowed to continue her Ph.D. Course.

20. Replying the aforesaid submissions of Sri Seth, Sri Utsav Misra, learned counsel for the petitioner has reiterated that the illegal denial by the respondent Authorities of the opportunity of the petitioner to complete her Ph.D Course will result in irreparable loss of career progression and promotional avenues, as the petitioner by not having a Ph.D Degree may not be considered for promotion to the next higher level or Associate Professor. Pursuant to the advertisement issued by

the University the petitioner who is wife of a faculty member in the Respondent-University through proper channel had applied for admission to the Ph.D Programme for the Academic Session 2016-17. As per the provisions contained in the aforesaid UGC Regulation 2009, the Ordinance-2014 were promulgated by the Respondent-University, in which under Clause 1.7 the faculty member/ employees of the Respondent-University were exempted from the entrance examination and under Clause 2.2 it was provided that for admission in the Ph.D Programme of the University 10% resolution would be earmarked for the University Employee and ward.

21. Sri Utsav Misra, learned counsel for the petitioner has further submitted that the Ordinance-2014 has been approved by the Academic Council of the University, which according to Section 20 of the Act, 2009 is the body of the Respondent-University, which has the power to control and regulate the standards of education and examination in the Respondent-University. The Executive Council is the Chief Executive Body of the Respondent-University had already granted approval to the Ordinance-2014 as well as the Ph.D Programme for Academic Session-2014-2015. The Executive Council by virtue of Section 13 of the Act 2009 has in its 17th meeting convened on 05.05.2017 at Agenda No.16.4 has approved the resolution of the Academic Council dated 30.10.2015 for grant of admission to the faculty members and their wards of the Respondent-University on additional seats in the Ph.D. Programme.

22. Sri Utsav Misra, learned counsel for the petitioner has further submitted that once the Executive Council has approved the resolution of the Academic Council for admission of faculty members in the Ph.D Programme of the Respondent-University, it is not open for the

Registrar of the Respondent-University to reject the representation/application of the petitioner purportedly on the ground that the affidavit submitted by the petitioner was not in accordance with the office memorandum dated 15.10.2019. The petitioner after participating in the entrance examination for admission to the Ph.D Course conducted by the Respondent-University in the academic year 2016-17 was admitted as a Ph.D. Research Scholar in the Faculty of Special Education and has for the last seven years regularly submitted the course work and presentation along with the Ph.D Course fee, therefore, the petitioner has legitimate expectation that she will be permitted to submit her Ph.D thesis.

23. Sri Mehrotra, learned counsel for the petitioner has submitted that the Hon'ble Supreme Court of India in a catena of pronouncements including the judgment rendered in re: **Southern Petrochemical Industries Co. Ltd. vs. Electricity Inspector and E.T.I.O. and other** reported in **AIR 2007 SC 1984** has held that legitimate expectation is now considered to be a part of principles of natural justice. If by reason of the existing state of affairs, a party is given to understand that the other party shall not take away the benefit without complying with the principles of natural justice, the said doctrine would be applicable. The legislature undisputedly has the power to legislate but where the law itself recognizes existing right and did not take away the same expressly or by necessary implication the principles of legitimate expectation of a substantive benefit may be held to be applicable. In the present case, the doctrine of *Promissory Estoppel* is squarely applicable, which provide that where any party has by his word or conduct made to the other party and unequivocal promise or representation by word or conduct, knowing as well intending that the representation, assurance of the promise would to

acted upon by the other party, such representation, assurance or the promise should be binding upon the party making it and that party should not be permitted to go back upon it.

24. I have heard learned counsel for the parties and perused the material available on record.

25. There are two questions for consideration before this Court.

(i) As to whether after spending seven precious years of her valuable academic year, can the petitioner be denied to her Pre-Submission Viva of Ph.D. thesis and completion of her Ph.D Course merely because the affidavit which was submitted by the petitioner was not in the prescribed format ?

(ii) As to whether the Ordinance-2014 issued by the Respondent-University, which was in vogue in the year 2015 and admission given in the Ph.D Programme on the basis of his aforesaid ordinance, can be set aside by an executive order issued in the year 2023 ?

26. For considering the aforesaid questions, it would be pertinent to indicate here that in a more or less identical matter in **Writ-C No.23756 of 2021; Pallavi Soni vs. State of U.P. & others**; this Court vide judgment and order dated 31.05.2023 allowed the aforesaid writ petition wherein there are same opposite parties and more or less same questions were considered. The judgment and order dated 31.05.2023 is being reproduced here-in-below:-

"1. Heard Sri A.Z. Siddiqui, learned counsel for petitioner, learned Standing Counsel for State and Sri Sudeep Seth, learned Senior Advocate assisted by Sri Atul Kumar Dwivedi, learned counsel for respondent University.

2. Petitioner who is a Ph.D. student of Fine Arts, studying in respondent University has approached this Court by the present writ petition for a mandamus claiming that respondent University is arbitrarily restraining her from completing her Ph.D. course in which

she has already put in five years, on the ground that there is some irregularity in her admission.

3. Brief facts of the case are that Dr. Shakuntala Mishra National Rehabilitation University (For Differently Abled) Uttar Pradesh (hereinafter referred to as 'University') was incorporated by State Act No.1 of 2009. A notice was issued by the University for holding admission process for Ph.D through entrance examination on 25.08.2015. Petitioner applied for Ph.D. in Fine Arts and participated in the selection process. After the selection process, petitioner stood fifth in the merit list and since only four vacancies were available for Ph.D. in Fine Arts, therefore, she could not be selected. The Vice-Chancellor of the University meanwhile entertained applications for Ph.D. from NET/GATE/SLATE candidates. Petitioner who had cleared her UGC NET (thrice cleared NET) being qualified also applied and Vice-Chancellor approved her admission on due recommendation made by the selection committee finding her qualified. Petitioner got her admission in November, 2015 and continued her research work. No objection with regard to her admission was ever raised. It appears that there were certain allegations with regard to working of the then Vice-Chancellor of the University and, thus, he was removed. Petitioner after completion of five years in Ph.D. sought extension of one year for completing her work as prescribed by rules, however, University declined petitioner to continue with research work and for accepting her further fees. University in pursuant to Academic Council resolution dated 11.05.2018 constituted a three member committee on 15.03.2019 to look into the manner in which the erstwhile Vice-Chancellor had permitted admission in Ph.D. courses. On 30.05.2019 the committee submitted an interim report and it appears that on the basis of said report, petitioner and other candidates were required to submit a declaration and affidavit that they were selected through examination and interview. Since, petitioner could not file such an affidavit in the language required by the University, she is not being permitted to continue her research work. Hence, petitioner has filed present writ petition.

4. Learned counsel for petitioner submits that there is no mistake on part of petitioner and she was granted admission by the University authorities in accordance with rules. The admission was not objected to for five years and now when the petitioner is nearly on verge of completing her Ph.D. she is being unnecessarily restrained from completing the same. He places reliance upon the following cases:-

(i) *Abha George and Ors vs. All India Institute of Medical Sciences (AIIMS) and Anr.*, [2022 SCC Online Del 366],

(ii) *Javed Akhtar vs Jamia Hamdard* [2006 SCC Online Del 1504],

(iii) *Ashok Chand Singhvi v. University of Jodhpur and Ors.* [(1989) 1 SCC 399] and

(iv) *Rajendra Prasad Mathur v. Karnataka University and Anr.* [AIR 1986 Supp. SCC 740]

5. Learned counsel for the University submits that as per Ph.D Ordinance of 2014 of the University, admission in Ph.D. course could only be available for four vacancies in Fine Arts after a written examination and interview. Petitioner stood fifth on merit but only four seats in Fine Arts were available, hence, she could not be granted admission in the said selection process. He further submits that Vice-Chancellor of the University has illegally granted admission to the petitioner in violation of rules and therefore, petitioner is now stopped from continuing the said Ph.D.

6. U.G.C. by notification dated 01.06.2009 has provided procedure for selection in M.Phil/Ph.D. Clause 9 and 10 of the same reads as:-

“9- i) समस्त विश्वविद्यालय, मानित विश्वविद्यालय, एवं कालेज/राष्ट्रीय महत्व की संस्थाएं एम.फिल. एवं शोध छात्रों का प्रवेश अपने स्तर पर विश्वविद्यालय, मानित विश्वविद्यालय एवं कालेज/राष्ट्रीय महत्व की संस्थाओं द्वारा आयोजित प्रवेश परीक्षा द्वारा होगा। जो लोग वि.अ.आ./सी.एस.आई.आर. (जे.आर.एफ.) परीक्षा, स्लेट/गेट उत्तीर्ण हैं या शिक्षक अध्यापनवृत्तियां धारक हैं और जिन्होंने एम.फिल. कार्यक्रम पी.एच.डी. प्रवेश परीक्षा के लिए उत्तीर्ण कर लिया है उनके लिए विश्वविद्यालय अलग से शर्तों का निर्धारण कर सकता है। यही तरीका एम.फिल. कार्यक्रम की प्रवेश परीक्षा में अपनाया जा सकता है।

पपद्ध इसके पश्चात् स्कूल/विभाग/संस्था/विश्वविद्यालय जैसा मामला हो एक साक्षात्कार का आयोजन करेगा।

पपद्ध साक्षात्कार के समय शोध छात्रों से अपेक्षा की जाती है वे अपने शोध रुचि/क्षेत्र पर विचार-विमर्श करें।

पपद्ध पहले से सुनिश्चित की गई छात्रों की संख्या पर ही छात्रों को एम.फिल./पी.एच.डी. कार्यक्रम में प्रवेश दिया जा सकेगा।

10. पी.एच.डी. कार्यक्रम में प्रवेश या तो सीधे या एम.फिल. माध्यम से होगा।”

7. Learned counsel for respondent University claims that in furtherance of the said guidelines of U.G.C., Ph.D. Ordinance, 2014 is issued by the University. The said ordinance provides for a written examination as well as interview.

8. Learned counsel for the respondent University was asked to place the provision of law under which the said ordinance was issued by the University. He could not place any provision of law which empowers the University to issue an ordinance. As per State Act No.1 of 2009,

the University possess power only to frame statute. Thus, on the face of it, the ordinance appears to be without jurisdiction. Even otherwise, the U.G.C. guidelines 9(i) provides that the University can provide for conditions for persons who have cleared C.S.I.R. examination(J.R.F.)/SLATE/GATE/M.Phil. separately from selection to be made through entrance examination. Therefore, it cannot be said that even by the said ordinance, the power of University given by paragraph 9(i) of U.G.C. guidelines is taken away. It is rather in furtherance of the said power that the Academic Council of the University in its 3rd meeting dated 03.10.2015 resolved as follows:-

“ख) उपरोक्त के अतिरिक्त यू.जी.सी. एवं सी.एस.आई.आर. के जे. आर.एफ./गेट/नेट/स्लेट/एम.फिल. धारक तथा सेवारत अधिकारी एवं ख्यातिलब्ध विशेषज्ञ, जिनका पी-एच.डी. शोध कार्य विश्वविद्यालय एवं समाज के उन्नयन तथा नीति-नियोजन में उपयोगी हो, को पी-एच.डी. में अतिरिक्त सीट का प्राविधान कर सीधे प्रवेश प्रदान करने हेतु कुलपति को अधिकृत किए जाने का मा0 विद्या परिषद् द्वारा निर्णय लिया गया।”

9. By the aforesaid resolution, Academic Council empowered Vice-Chancellor to create extra seats for Ph.D. and grant admission to persons who have cleared J.R.F./GATE/NET/SLATE/M.Phil. The said Academic Councils' resolution was duly acted upon and in furtherance thereof, Vice-Chancellor of the University exercising his powers granted admission to the petitioner in November, 2015. Therefore, submission of learned counsel for the University that the admission granted is in violation of U.G.C. guidelines or the ordinance of the University does not have any force. The Academic Council of the University duly empowered the Vice-Chancellor to grant admission by creating extra seats. The said resolution of the Academic Council holds good till date. Neither any authority of the University till date has objected to the said resolution nor the same is withdrawn as yet. Therefore, Vice-Chancellor was empowered under the said resolution and has granted admission to the petitioner by creating an extra seat in Ph.D. in Fine Arts as petitioner was fully qualified.

10. Learned counsel for respondent University has further drawn attention of the Court to Section 13.1 of the State Act No.1 of 2009 and claims that it is the Executive Council which possess all these powers with regard to admission etc. and neither the Academic Council nor the Vice-Chancellor has any such power.

11. The relevant sections of Act No.1 of 2009 with regard to powers of concerned authorities of the University reads:-

"13.1 The Executive Council shall be chief executive body of the University.

(2) The administration, management and control of the University and the income thereof shall be vested in the Executive Council which shall control and administer the property and funds of the University.

20. The Academic Council shall be the academic body of the University and Academic Council shall, subject to the provision of this Act and the statutes, have power of control and general regulation of and be responsible for, the maintenance of standards of instructions, education and examination of the University and shall exercise such other powers and perform such other functions as may be conferred upon or assigned to, it by this Act or the statutes, It shall have the right to advise the Executive Council on all academic matters.

22. Subject to the provisions of this Act or the statutes, the Academic Council shall in addition to all other powers vested in it, have the following powers, namely:-

(i) in report on any matter referred to or delegated to it by the General Council or the Executive Council;

(ii) to make recommendations to the Executive Council with, regard to the creation, abolition or classification of teaching posts in the University and the qualifications, emoluments and duties attached thereto;

(iii) to formulate and modify or revise schemes for organisation of the faculties and to assign to such faculties their respective subjects and also to report the Executive Council as to the expediency of the abolition or subdivision of any faculty or the combination of one faculty with another;

(iv) to promote research within the University and to require, from time to time, report on such research;

(v) to consider proposals submitted by the faculties,

(vi) to lay norms and to appoint committees for admission to the University;

(vii) to recognise diplomas and degrees of other Universities and Institutions and to determine their equivalence in relation to the diplomas and degree of the University;

(viii) to fix, subject to any conditions accepted by the General Council, the time, mode and conditions of competitions for fellowship, scholarship and other prizes and to award the same;

(ix) to make recommendations to the Executive Council in regard to the appointment of examiners and if necessary their removal and the fixation of their fees, emoluments and travelling and other expenses;

(x) to make arrangements for the conduct of examinations and to fix dates for holding them;

(xi) to declare the results of the various examinations or to appoint committees or officers to do so, and to make recommendations regarding the conferment or grant of degrees, honours, diplomas, licences, titles and marks of honour;

(xii) to award stipends, scholarship, medals and prizes and to make other awards in accordance with the regulations and such other conditions as may be attached to the awards.

(xiii) to publish list of prescribed or recommended text books and to publish syllabus of the prescribed courses of study.

(xiv) to prepare such forms and registers as are, from time to time, prescribed by statutes; and

(xv) to perform, in relation to academic matters, all such duties and to do all such Ordinances as may be necessary for the proper carrying out the provisions of this Act and the statutes.

27(11) The Vice Chancellor shall-

(a) ensure that the provisions of this Act and the statutes are duly observed and shall have all powers as are necessary for that purpose;

(b) subject to the specific and general directions of the Executive Council the Vice Chancellor shall exercise all powers of the Executive Council in the management and administration of the University;

(c) convene the meetings of the General Council, the Executive Council, the Academic Council and shall perform all other Acts, as may be necessary to give effect to the provisions of this Act,

(d) have all powers relating to the proper maintenance of discipline in the University."

12. A perusal of the aforesaid provisions show that though the Executive Council is executive body of the University and is responsible for administration, management and control of the University but Section 27(11)(b) provides that subject to specific and general directions of the Executive Council, the Vice-Chancellor shall exercise all powers of the Executive Council in the management and administration of the University. Therefore, unless there is specific or general directions given by the Executive Council, the Vice-Chancellor has power to administer, manage and control the affairs of the University. Ph.D. Ordinance, 2014 only provides with regard to Ph.D seats to be filled up through selection. The same is silent with regard to persons who have qualified NET/GATE/SLATE etc. There is

no direction in the entire ordinance with regard to such persons who are permitted by U.G.C. Regulation 2009 to be admitted by the University as per procedure prescribed by the University. Thus, since there is no specific or general direction given by the Executive Council with regard to such persons it was open for the Vice-Chancellor to take a decision. The Academic Council by its 3rd resolution had proposed that such persons may be admitted by the Vice-Chancellor by creating extra seat and Vice-Chancellor has exercised such power. Since the year 2015 till date the Executive Council has not reversed the said decision of Academic Council and Vice-Chancellor. Petitioner continued to pursue her Ph.D. in the University for five long years. Executive Council never objected to the same. Thus, it can safely be understood that Executive Council permitted continuation of petitioner in her Ph.D. course. From the above it is clear that there is no illegality found in the admission process of petitioner. Learned counsel for the respondent University could not point any provision of law under which admission of petitioner could be held to be illegal.

13. Now coming to the judgments referred to by counsel for petitioner, in the case of Rajendra Prasad Mathur (supra) the dispute was of cancellation of admission to the B.E. Course. The High Court allowed the writ petition and the Supreme Court while dismissing the appeals held that:

"8. We accordingly endorse the view taken by the learned Judge and affirmed by the Division Bench of the High Court. But the question still remains whether we should allow the appellants to continue their studies in the respective engineering colleges in which they were admitted. It was strenuously pressed upon us on behalf of the appellants that under the orders initially of the learned Judge and thereafter of this Court they have been pursuing their course of study in the respective engineering colleges and their admissions should not now be disturbed because if they are now thrown out after a period of almost four years since their admission their whole future will be blighted. Now it is true that the appellants were not eligible for admission to the engineering degree course and they had no legitimate claim to such admission. But it must be noted that the blame for their wrongful admission must lie more upon the engineering colleges which granted admission than upon the appellants. It is quite possible that the appellants did not know that neither the Higher Secondary Examination of the Secondary Education Board, Rajasthan nor the first year BSc examination of the Rajasthan and Udaipur Universities was recognised as equivalent to

the Pre-University Examination of the Pre-University Education Board, Bangalore. The appellants being young students from Rajasthan might have presumed that since they had passed the first year BSc examination of the Rajasthan or Udaipur University or in any event the Higher Secondary Examination of the Secondary Education Board, Rajasthan they were eligible for admission. The fault lies with the engineering colleges which admitted the appellants because the Principals of these engineering colleges must have known that the appellants were not eligible for admission and yet for the sake of capitation fee in some of the cases they granted admission to the appellants. We do not see why the appellants should suffer for the sins of the managements of these engineering colleges. We would therefore, notwithstanding the view taken by us in this Judgment, allow the appellants to continue their studies in the respective engineering colleges in which they were granted admission. But we do feel that against the erring engineering colleges the Karnataka University should take appropriate action because the managements of these engineering colleges have not only admitted students ineligible for admission but thereby deprived an equal number of eligible students from getting admission to the engineering degree course. We also endorse the directions given by the learned Judge in the penultimate paragraph of his Judgment with a view to preventing admission of ineligible students." **(Emphasis added)**

14. Further, in the case of Ashok Chand Singhvi (*supra*), where the facts were similar to the current case, the Court observed that students cannot be made to suffer for the fault of the management of the university. The relevant paragraphs of the judgment are as follows:

"14. It is urged by Mr Mehrotra, learned counsel appearing on behalf of the respondents, that the appellant could not be admitted and his admission was illegal. There may be some force in the contention of the learned Counsel, but when all facts were before the University and nothing was suppressed by the appellant, would it be proper to penalise the appellant for no fault of his? The admission of the appellant was not made through inadvertence or mistake, but after considering even all objections to the same, as raised by the said Officer-in-Charge, Admissions, in his note. The appellant was communicated with the decision of the Dean as approved by the Vice-Chancellor admitting him to the Second Year BE course. The appellant deposited the requisite fees and started attending classes when he was told that his admission was directed to be put in

abeyance until further orders without disclosing to him any reason whatsoever.

15. It is curious that although the admission to the BE degree course of the University is governed by statutes of the University and admission rules, the said resolution of the Syndicate dated 13-12-1970 has also been kept alive. Neither the Dean nor the Vice-Chancellor was aware of the true position, namely, as to whether the said resolution had become infructuous in view of the statutes and the admission rules. A teacher candidate is likely to be misled by the said resolution. It is the duty of the University to see that its statutes, rules and resolutions are clear and unambiguous and do not mislead bona fide candidates. The University should have revoked the said resolution in order to obviate any ambiguity in the matter of admission or included the same in the statutes as part of the admission rules.

16. When the appellant made the application beyond the last date, his application should not have been entertained. But the application was entertained, presumably on the basis of the said resolution of the Syndicate. The appellant also brought to the notice of the Dean the said resolution and also the implementation of the same by admitting seven teacher candidates.

*17. It is submitted on behalf of the University that it was through mistake that the appellant was admitted. We are unable to accept the contention. It has been already noticed that both the Dean and the Vice-Chancellor considered the objections raised by the Officer-in-Charge, Admissions, and thereafter direction for admitting the appellant was made. When after considering all facts and circumstances and also the objections by the office to the admission of a candidate, the Vice-Chancellor directs the admission of such a candidate such admission could not be said to have been made through mistake. Assuming that the appellant was admitted through mistake, the appellant not being at fault, it is difficult to sustain the order withholding the admission of the appellant. In this connection, we may refer to a decision of this Court in *Rajendra Prasad Mathur v. Karnataka University* [1986 Supp SCC 740]. In that case, the appellants were admitted to certain private engineering colleges for the BE degree course, although they were not eligible for admission. In that case, this Court dismissed the appeals preferred by the students whose admissions were subsequently cancelled and the order of cancellation was upheld by the High Court. At the same time, this Court took the view that the fault lay with the engineering colleges which admitted the appellants and that there was no reason why the*

appellants should suffer for the sins of the management of these engineering colleges. Accordingly, this Court allowed the appellants to continue their studies in the respective engineering colleges in which they were granted admission. The same principle which weighed with this Court in that case should also be applied in the instant case. The appellant was not at fault and we do not see why he should suffer for the mistake committed by the Vice-Chancellor and the Dean of the Faculty of Engineering." **(Emphasis added)**

15. The said judgments are followed and a similar approach is adopted by the Delhi High Court in the case of *Abha George (supra)*, the Delhi High Court was of the opinion that:

"18. In *Javed Akhtar case [Javed Akhtar v. Jamia Hamdard, 2006 SCC OnLine Del 1504]*, a Coordinate Bench of this Court considered a case where the petitioners' candidature was accepted for appearing in the entrance examinations, and they were admitted to the institution concerned. Their admissions were cancelled after they had attended the classes for one month. The facts of the case are very similar to the present case. The question framed by the court was in the following terms:

"21. ... This is not disputed that the petitioners filled the forms for appearing in the entrance examination and gave their correct date of birth. The forms of the petitioners were considered and they were allowed to appear in the examination. After their names appeared, they were called for counselling and after verifying the documents and certificates of the petitioners, they were given admission. The petitioners were issued identity cards after accepting the fees for the course from them and the petitioners were allowed to attend classes for a month and thereafter by communication dated 8-8-2006 the admission of the petitioners have been cancelled. Whether Respondent 1 can be allowed to cancel the admission midterm in the facts and circumstances, when the petitioners have not concealed any thing nor produced any documents to mislead Respondent 1? Whether Respondent 1 will be estopped from cancelling the admission of the petitioners in the facts and circumstances?" **[Emphasis supplied]**

19. The court answered the question thus:

"38. Therefore, while granting the admission if the academic body has acted inattentively and mechanically, then they cannot be allowed to take the plea that the admission was never valid and that the petitioners were ineligible from the very inception and knowing the ineligibility they applied for admission. The respondents cannot be allowed to cancel the admission at their own convenience at any time

of the year without considering the fact that if they cancel the admission after the session has started then the entire year of the petitioners will be spoiled as the petitioners would not be in a position to take admission in any other college/university. If this fact of their ineligibility for admission was conveyed to them at the very start they would have taken admission in some other college/university.

39. In such situation, in view of the decision in Sangeeta Shrivastava v. U.N. Singh [Sangeeta Shrivastava v. U.N. Singh, 1979 SCC OnLine Del 202], the petitioners cannot be penalised for the negligence of authorities. It is important to appreciate that the petitioners in the facts and circumstances cannot be accused of making any false statement or suppressing any relevant fact before anybody. They clearly mentioned their date of birth in the application form for admission, and are not guilty of any fraud or misrepresentation. It was the duty of the university to have scrutinised the application form and the certificates thoroughly before granting admission to the petitioners and permitting them to attend the classes and not having done so they cannot cancel the admission thereafter. By accepting the application form and subsequently granting admission representation was made by the respondents that the petitioners' were eligible for admission and the petitioners' acting upon the same took admission and thus the petitioners' suffered a detriment. Had the respondents not made the representation that the application had been approved and granted admission the petitioners' would have applied and taken admission else where. Therefore the respondents are estopped from pleading that the petitioners were not entitled to a seat from the inception and that the admission is void ab initio and that the admission without fulfilment of the eligibility criteria is a nullity.

40. In the facts and circumstances of the case the respondents cannot be allowed to take advantage of their own wrong and cannot be permitted to take the plea that under the prospectus they had the power to cancel the admission of ineligible student and the principle of estoppel will operate against them. The respondents are estopped from cancelling the admission of the petitioners' and further from preventing them from pursuing the 'pre tib' course in the present facts and circumstances."

[Emphasis supplied]

20. Applying these authorities in the present case, it appears that the petitioners' documents were accepted by the respective centres of Aims, despite the fact that their qualifying examination results were declared one week later than stipulated in the prospectus. The petitioners have prosecuted their studies for almost two months prior

to issuance of the impugned OM dated 18-10-2021. There is no allegation that the petitioners had misrepresented or concealed any information from Aiims indeed, there cannot be, as the qualifying examination was conducted by Aiims itself. Applying the observations of the Supreme Court in Rajendra Prasad Mathur case [Rajendra Prasad Mathur v. Karnataka University, 1986 Supp SCC 740] , in the present case also, the blame lies more upon the institution than the petitioners. The candidates applied; their results were declared by Aiims, New Delhi; those results were submitted to the regional centres to which they have been assigned, and they were granted admission. Their admissions were cancelled after they had spent almost two months on the course. The judgment of this Court in Javed Akhtar case [Javed Akhtar v. Jamia Hamdard, 2006 SCC OnLine Del 1504] , in fact, goes further to hold that an academic institution cannot be permitted to cancel admissions after the course had started, at any time during the year, due to prejudice that would be caused to the candidates who were admitted as they would by then be unable to take admission in any other university to which they may have been admitted."

16. Law is, thus, well settled on the issue involved. Once, the University has granted admission and permitted petitioner to continue for five long years and her Ph.D. course is on the verge of completion, it is now not open for the University to restrain petitioner from completing her course. Even presuming some irregularity did occur at the time of admission in Ph.D. course, the same can not now be made the basis for denying petitioner from completing her course. Learned counsel for respondent University could not show from record that petitioner has in any manner misrepresented or played fraud or otherwise was maliciously involved in the said admission process. The decision was taken by the authorities of University in exercise of its powers. Thus, this Court finds that the respondent University cannot restrain petitioner from completing her Ph.D. course and is bound to consider her application for extension of period by one year as per rules.

17. This Court further finds that the country is making its best efforts to grow from a developing nation to a developed one. Repeatedly it is said that to become a developed nation huge research work is required to be conducted within the Country. Now, when the students are pursuing their research work and are at the verge of completion it is highly improper to restrain them from completing their research on legal technicalities. The country is in dire need of research work. Petitioner has put more than five years in her Ph.D. course and is on

the verge of submitting the same. Now denial of benefit of said research work to the nation in itself would be a huge loss. In the said circumstances also this Court is inclined to exercise its discretionary jurisdiction in favour of petitioner and against the respondent University.

18. In the given facts and circumstances of the case, the writ petition is allowed and a mandamus is issued to respondent University to consider the application of petitioner for extension of one year after five years of Ph.D. course and permit her to submit fees in accordance with law. Such a decision shall be taken and communicated to the petitioner by the respondent University within a period of 15 days and accordingly petitioner shall be permitted to complete her Ph.D. course in accordance with law."

(Emphasis supplied)

27. Notably, at the time of judgment and order dated 31.05.2023 a fresh decision on the same subject matter was not taken by the University which has been taken on 01.07.2023 and 07.07.2023 (supra), which have been annexed as Annexure Nos.SCA-1 & SCA-2 with the supplementary counter affidavit of the respondent-University, but undisputeldly the controversy is the same.

28. Notably, one more identical matter which was connected with this writ petition bearing **Writ-C No.3799 of 2023; Mahesh Kumar Chaudhary vs. State of U.P. & others**; has been decided by this Court vide order dated 17.07.2023, which reads as under:-

"1. Heard Sri Gaurav Mehrotra, learned counsel for the petitioner, learned Standing Counsel for the State-opposite parties and Sri Sudeep Seth, learned Senior Advocate assisted by Sri Atul Kumar Dwivedi, learned counsel for the opposite party Nos.2 to 6.

2. By means of this writ petition, the petitioner has prayed for the following reliefs:-

"(i) to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 30.12.2022, issued by the respondent No.4, copy whereof is contained as Annexure No.1 to this writ petition.

(ii) to issue a writ, order or direction in the nature of mandamus commanding the respondents to enable the petitioner to submit his

Ph.D thesis and to conclude the Ph.D Course, in which the petitioner was admitted by the respondent University."

3. This Court has passed the order dated 29.05.2023, which reads as under:-

"1. Sri Sudeep Seth, learned Senior Advocate assisted by Sri Atul Kumar Dwivedi, learned counsel for respondent University states that University has already constituted a committee to visit the issue of continuation of Ph.D. course of petitioner and other similarly situated persons and the decision will be taken within a period of four weeks.

2. On request, put up this case on 05.07.2023 in additional cause list amongst top ten cases.

3. Sri Sanjeev Kumar Srivastava, learned counsel is present for respondent no.7."

4. Sri Sudeep Seth, learned Senior Advocate has drawn attention of this Court towards Annexure No.SCA-2 of the short counter affidavit, which is a office order dated 07.07.2023.

5. Sri Seth has submitted that Annexure No.SCA-2 has been explained in para-8 of the short counter affidavit, which is being reproduced here-in-below:-

"8. That the Research Degree Committee in its meeting dated 06.07.2023 has accepted the recommendations made in the report dated 01.07.2023 and upon consequent approval of the competent authority, the office order dated 07.07.2023 has been issued by the Registrar permitting the teachers having NET/SLET/JRF qualification to continue their Ph.D. Course. Such teachers who do not possess the NET/SLET/JRF qualification and has been given admission in the Ph. D. Course directly without participation in the entrance examination have been given an opportunity to appear in the Ph. D. Entrance Test and upon qualifying the same, they shall be allowed to continue their Ph.D. Course."

6. Sri Seth has stated that as per the office order dated 07.07.2023, the case of the present petitioner is fully covered, therefore, he may pursue to continue his Ph. D. Course.

7. Since the grievance of the present petitioner has been redressed in the light of the aforesaid office order dated 07.07.2023, more particularly vide paras-1 & 3 of the aforesaid office order inasmuch as the present petitioner is fulfilling both the conditions as indicated in paras-1 & 3 of the office order dated 07.07.2023, therefore, the present petition is allowed in terms of office order dated 07.07.2023."
(Emphasis supplied)

29. In the aforesaid order, the letter dated 01.07.2023 along with the report of 03 Members Committee as well as office order dated 07.07.2023 have been considered.

30. Undisputedly, the petitioner being ward of a faculty member was initially granted admission as per clause 2.7 of the Ordinance-2014 still the petitioner appeared and was admitted. At that time the ordinance does not mention NET/ SLET/ JRF as a requirement for faculties to be eligible for being eligible through University Employees Quota, therefore, at this juncture, recommendation No.2 by Research Degree Committee in its meeting dated 06.07.2023 that "such teachers who do not possess the aforesaid qualification and has been given admission in the Ph.D Course directly without participation in the entrance examination would have to appear in the Ph.D Entrance Test and upon qualifying the same, they shall be allowed to continue their Ph.D Course" would be a travesty to the conscience of justice. Such an action goes against the legal maxim, *omnia praesumuntur rite et dowe probetur in contrarium solenniter esse acta* i.e. all the acts are presumed to have been done rightly and regularly and will cause prejudice to the cause of justice.

31. The petitioner was issued a certificate of being a bonafide student of Ph.D Programme by the Ph.D Programme Co-ordinator. Notably, the petitioner has paid fees from the Academic Session 2016-17 to 2020-21, therefore, such candidate should not be withheld based upon the above premises.

32. The Apex Court in the case in re: **Southern Petrochemical Industries Co. Ltd. (supra)** has held that if by reason of the existing state of affairs, a party is given to understand that the other party shall not take away the benefit without complying with the principles of

natural justice, the doctrine of legitimate expectation would be applicable.

33. Recently, the Apex Court in re: **WG CDR A.U. Tayyaba (Retired) and Others vs. Union of India and Others** reported in **(2023) 5 SCC 688** has elaborated the doctrine of legitimate expectation in para-29 and the observation of Apex Court would be applicable in the present case also. For convenience, para-29 is being reproduced hereunder:-

"29. A person is said to have a reasonable or legitimate expectation if a representation or a promise made by an authority, either expressly or impliedly, gives room for such expectation in the normal course. While applying the doctrine of legitimate expectation, the primary considerations are reasonableness and fairness of the State action. In State of Jharkhand v. Brahmputra Metalics Ltd. This Court speaking through one of us (D.Y. Chandrachud, J.) elaborated on the doctrine of legitimate expectation in the following terms: (SCC para 50).

"50.... The State must discard the colonial notion that it is a sovereign handing out doles at its will. Its policies give rise to legitimate expectations that the State will act according to what it puts forth in the public realm. In all its actions, the State is bound to act fairly, in a transparent manner. This is an elementary requirement of the guarantee against arbitrary State action which Article 14 of the Constitution adopts." (Emphasis supplied)

34. The Apex Court in the case in re: **Kalyani Mathivanan vs. K.V. Jeyaraj and others** reported in **(2015) 6 SCC 363** has held that the UGC Regulations are merely directory and not mandatory unless the State Government wish to adopt and implement the scheme subject to any terms and conditions therein.

35. This Court in the case in re: **Pallavi Soni (supra)** has held that once the University had granted admission and permitted the student to continue for long years, it was not open for the University to restrain the student from completing her course.

36. Undisputedly, the respondent-University has not assailed the judgment and order dated 31.05.2023 passed by this Court in re: **Pallavi Soni (supra)**, in appeal, and as such the same has attained finality and is binding upon the respondent-University. Moreover, pursuant to the judgment and order dated 31.05.2023 passed by this Court in re: **Pallavi Soni (supra)** vide office memorandum dated 15.06.2023 the Registrar of the respondent-University has complied with the direction of this Court and permitted the writ petitioner therein to complete the Ph.D Course by 30.06.2023.

37. The case of the present petitioner is at better footing than the case of **Pallavi Soni (supra)** inasmuch as **Pallavi Soni (supra)** was in the waiting list whereas the name of the present petitioner was finding place in a list of selected candidates.

38. The petitioner not having concealed or misrepresented any information and after participating the entrance examination of the Ph.D Course being conducted in the Respondent-University for the Academic Session-2016-17 and having been admitted in the aforesaid Ph.D Programme had been regularly pursuing the Ph.D for the last seven years, as such, cannot be denied her legitimate right to submit her Pre-Submission Viva of Ph.D thesis, and complete her Ph.D Course.

39. Thus, the petitioner being ward of a faculty member of the Respondent-University appears in the entrance examination to the Ph.D Programme in the year 2016 and whose name appears in the list of selected candidate and there being no illegality committed by the petitioner in securing admission to the Ph.D Course conducted by the Respondent-University after a period of seven years, the admission of the petitioner could not have been cancelled. Thus, the question No.1

is answered in negative and the petitioner is entitled to continue with her Ph.D.

40. So far as the second question is concerned, it has already been answered in negative by this Court in the case in re: Pallavi Soni (supra), more particularly in para-9 and 12 thereof, and I am in agreement with the findings and observations of that judgment. Besides, the executive order issued in the year 2023 may not affect the claim of the present petitioner to conclude her Ph.D Course as she is duly entitled for the same in view of clause 1.7 and 2.28 of the Ordinance-2014.

41. Therefore, in view of the fact, circumstances and the case laws so considered above, the writ petition is liable to be allowed.

42. The writ petition is, therefore, **allowed**. The writ in the nature of of mandamus is issued commanding the Respondent-University to permit the petitioner to submit her Pre-Submission Viva of Ph.D thesis and to conclude the Ph.D Course in which the petitioner was admitted by the Respondent-University. Such decision shall be taken by the Respondent-University forthwith preferably within a period of fifteen days from the date of receipt of a certified copy of this order.

43. No order as to the costs.

Order Date :- 28.8.2024

A. Verma

(Alok Mathur, J.)